

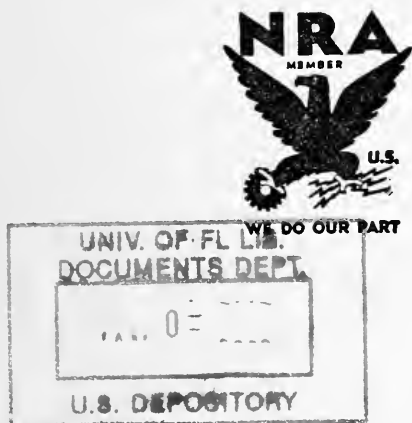
NATIONAL RECOVERY ADMINISTRATION

PROPOSED CODE OF FAIR COMPETITION

FOR THE

TEXTBOOK PUBLISHING
INDUSTRY

AS SUBMITTED ON SEPTEMBER 6, 1933



The Code for the Textbook Publishing Industry in its present form merely reflects the proposal of the above-mentioned industry, and *none of the provisions contained therein are to be regarded as having received the approval of the National Recovery Administration as applying to this industry*

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

SUBMITTED BY
NATIONAL TEXTBOOK PUBLISHERS' COUNCIL
(1F)

THE CODE OF THE TEXTBOOK PUBLISHING INDUSTRY FOR THE ADVANCEMENT OF THE NATIONAL INDUSTRIAL RECOVERY ACT

ARTICLE I—PURPOSE OF THE CODE

SECTION 1. This Code, hereinafter referred to as “the Code”, is adopted pursuant to Title I of the National Industrial Recovery Act.

SEC. 2. The purpose of the Code is to effectuate the provisions of the National Industrial Recovery Act insofar as it is applicable to the Textbook Publishing Industry, to increase employment, to establish fair and adequate wages and fair hours of labor, and to eliminate unfair trade competition in the Textbook Publishing Industry.

ARTICLE II—DEFINITIONS

SECTION 1. The term “Textbook Publishing Industry” is defined as the business of publishing and selling books, printed materials, and/or accessories, in the United States and its possessions, for use in educational institutions such as public schools, private schools, colleges, and universities, and for instructional use by individuals or groups.

SEC. 2. The term “Member of the Textbook Publishing Industry” is defined to include any person, partnership, corporation, association, or public body now or hereafter engaged in the Textbook Publishing Industry as defined above.

SEC. 3. The term “unfair competition” is defined as any act on the part of any Member of the Textbook Publishing Industry in violation, under the National Industrial Recovery Act, of the provisions of this Code.

SEC. 4. The term “person” means and includes any natural person, partnership, corporation, association, institution, or public body.

ARTICLE III—MEMBERSHIP

SECTION 1. Any Member of the Textbook Publishing Industry shall be entitled to be a participating member of the National Textbook Publishers' Council as hereinafter provided for, upon accepting his share of the responsibilities and costs of such participation, and shall be entitled to all the benefits thereof; but all Members of the Textbook Publishing Industry, in accordance with the provisions of the National Industrial Recovery Act, shall be subject to the provisions of the Code when approved by the President of the United States, whether such Members of the Textbook Publishing Industry are or are not Members of the National Textbook Publishers' Council.

ARTICLE IV—ADMINISTRATION OF THE CODE

SECTION 1. The Code shall be administered by the National Textbook Publishers' Council founded for this purpose and whose membership is made up as follows: each Member of the Textbook Publishing Industry who agrees to comply with the provisions of the Code, may designate one executive from its own organization as

its representative to serve until replaced by the Member of the Textbook Publishing Industry making such designation, and such representatives so designated shall constitute the National Textbook Publishers' Council, hereinafter referred to as the "Council."

SEC. 2. The members of the Council shall elect from its membership a Chairman, a Vice Chairman, a Secretary, and a Treasurer, and shall then elect from its membership not more than seven, who, together with the elected officers, shall constitute the Executive Committee. All officers and members of the Executive Committee shall serve for one year or until their successors are elected, or as may be provided in the By-Laws of the Council.

SEC. 3. In accordance with the By-Laws of the Council, the administration of the Code shall be vested in and under the direction of the Executive Committee of the National Textbook Publishers' Council, and said Executive Committee shall have all the powers and duties conferred upon it by the Code, and such other powers and duties as may be necessary and proper to fully administer the Code and effectuate its purpose.

SEC. 4. Unless otherwise provided by the By-Laws of the Council, the Chairman of the Council shall be the Chairman of the Executive Committee; he shall call meetings of the Executive Committee upon his own initiative or when requested by four Members of the said Committee; he shall call such meetings of the Council as may, in the judgment of the Executive Committee, be deemed necessary, or upon a signed request of one fourth of the members of the Council. The Vice Chairman of the Council shall be the Vice Chairman of the Executive Committee, and in the absence of the Chairman shall act in his place.

SEC. 5. Unless otherwise provided by the By-Laws of the Council, the Secretary of the Council shall be the Secretary of the Executive Committee, and under the direction of said Committee he shall keep all books (except books of account) and records of the Council and the Executive Committee; and, except as such Committee shall otherwise provide, shall collect, file, and tabulate all statistics and other information required by the Executive Committee for the proper administration of the Code.

SEC. 6. The Treasurer of the Council shall, under the direction of the Executive Committee and in accordance with the By-Laws of the Council, collect, have custody of, and have charge of the disposition of all funds collected under the Code; he shall keep proper books of account of the collection and distribution of such funds; and he shall perform such other duties as may be provided in the By-Laws of the Council.

SEC. 7. In accordance with the By-Laws of the Council, the Executive Committee shall appoint, remove, and fix the compensation of such employees as said Committee shall deem necessary for the administration of the Code, and provide such office facilities as may be necessary.

SEC. 8. The expenses of administering the Code shall be paid by the Members of the Textbook Publishing Industry, and funds for defraying such expenses shall be payable to the Treasurer as follows:

- (a) Each Member of the Industry shall pay annually \$100.00; and
- (b) in addition the Executive Committee may levy against each Member of the Industry such proportionate assessments as may be necessary.

SEC. 9. The Executive Committee shall have the powers and duties as provided herein, and shall also

(a) from time to time require such reports from the Members of the Textbook Publishing Industry as may be necessary to inform the said Committee adequately of the administration and enforcement of this Code and to satisfy all the requirements of the National Recovery Administration;

(b) upon complaint of interested parties, or upon its own initiative, make such inquiry and investigation into the operation of the Code as may be necessary, and take such action as may be required by or permitted under the National Industrial Recovery Act;

(c) make rules and regulations necessary for the administration and enforcement of the Code;

(d) submit to the Council for adoption such supplementary provisions, amendments, or revisions to the Code or additional Code as may be found desirable, and, when adopted, shall present the same for the approval and ratification of the National Recovery Administration; and

(e) appoint from time to time such other or subcommittees as may be necessary to carry out the provisions of the Code. Members of the committees so appointed may be from the Council, the Executive Committee, or from both.

SEC. 10. The Executive Committee, with such additional members as may be recommended or appointed by the National Recovery Administration, shall constitute a general planning and coordinating Board for the Industry.

ARTICLE V—HOURS OF LABOR, RATES OF PAY, AND CONDITIONS OF EMPLOYMENT

SECTION 1. Pursuant to Section 7 (a) of the National Industrial Recovery Act, the Code shall be subject to the following conditions:

(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from the interference, restraint, or coercion of employers of labor or their agents in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved by the President of the United States.

SEC. 2. No individual shall be employed in the Textbook Publishing Industry in excess of forty hours in any one week, except during the period in which seasonal or peak demand places an unusual or temporary burden upon production, distribution, stock taking, or bookkeeping, provided, however, that while an employee may be permitted to work in excess of forty hours in any one week in order to take care of a peak demand upon the business as described above, the number of such excess hours worked shall be so restricted that the average number of hours worked per week by the given employee shall not exceed forty within any six months' period.

SEC. 3. Except as hereinafter provided, within ten days after the effective date of this Code, the minimum wage that shall be paid in the Textbook Publishing Industry to any employee shall not be less than \$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than \$14.50 per week in any city of between 250,000 and 500,000 population or in the immediate trade area of such city; nor less than \$14.00 per week in any city of between 2,500 and 250,000 population or in the immediate trade area of such city; and in towns of less than 2,500 population all wages shall be increased by not less than twenty percent provided that such increase shall not require wages in excess of \$12.00 per week. Office boys or girls, learners, and casual employees may be paid not less than eighty percent of minimum wages as herein provided, but the total amount paid to such office boys or girls, learners, and casual employees shall not exceed in any calendar month five percent of the total amount paid by an employer to all his employees.

SEC. 4. The provisions for a minimum wage in this Code shall establish a guaranteed minimum rate of weekly pay regardless of whether the employee is compensated on the basis of a time rate or on a piecework performance. If the provisions herein for maximum hours worked per week shall entail a reduction in the number of hours worked per week heretofore, no reduction in the present compensation of employees now receiving in excess of the minimum wage herein provided shall thereby result.

SEC. 5. No Member of the Textbook Publishing Industry shall employ any person under sixteen years of age.

ARTICLE VI—INDUSTRY REGULATIONS

SECTION 1. Members of the Textbook Publishing Industry, as requested by the Executive Committee, shall furnish the said Committee such information as may be necessary for the administration of the Code and for the enforcement of the rules and regulations thereof.

SEC. 2. Within ten days after the effective date of this Code, each member of the Textbook Publishing Industry shall file with the Executive Committee the title, list price, and maximum discount f.o.b. publisher of each regular publication or accessory offered for sale or adoption in the United States and its possessions, intended for elementary and secondary school use, and thereafter the title, list price, and maximum discount f.o.b. publisher of each additional publication or accessory not previously filed shall be similarly filed.

The publication of a so-called special edition of a regular textbook representing immaterial manufacturing changes or slight changes in content for the purpose of effecting a disproportionate reduction in price shall be considered unfair practice. Nothing in this section, however, shall be construed to prohibit the adaptation of a regular edition of a textbook to the grade or course of study requirements of any state, city, or district school system, or to other reasonable requirements of adopting boards. If the adaptation of a regular edition causes any change in price, such price shall be duly filed with the Executive Committee. Changes in prices of books so listed shall be filed with the Executive Committee 10 days before such books shall be sold or offered for sale or adoption at such revised price.

Prices offered in sealed competitive bids for adoption shall be filed with the Executive Committee within ten days after the bids are opened and samples of books so offered shall be submitted to the Committee. All prices filed with the Executive Committee shall be included in official current price lists and catalogs as issued from time to time by members of the Industry.

SEC. 3. It shall be unfair competition for any Member of the Textbook Publishing Industry to sell, offer, or contract for sale or adoption, directly or indirectly, by any means whatsoever, any product of the Textbook Publishing Industry at a lower price or at a greater discount than listed and/or filed by its publisher with the Executive Committee, or on more favorable terms than provided in the Code.

SEC. 4. On and after January 1, 1934, an exchange allowance may be made as follows: When an old, displaced, complete, basal elementary, and/or high-school textbook of the same subject and grade is received in exchange for a new and different textbook introduced in its stead, an additional discount of not in excess of five percent of the list price of the new book purchased may be allowed. New and salable books of the same subject and grade may be accepted dollar's worth for dollar's worth, but the credit for any one book shall not be in excess of the net charge for the new book. The number in the aggregate of the new and old books accepted for exchange shall not exceed the number of new books purchased. All books subject to exchange must be delivered to the Member of the Textbook Publishing Industry making the exchange before any credit shall be allowed.

SEC. 5. Inasmuch as the sending of sample textbooks for examination is a recognized part of the promotional work of the Textbook Publishing Industry, it is agreed that such samples shall be sent complimentary only to school boards, school officials, teachers, and other persons charged with the responsibility of adopting textbooks or recommending the same for adoption. Book copies, sets of books for trial class use or demonstration purposes, for libraries, or for exhibits shall be charged at regular prices.

SEC. 6. It shall be unfair competition to pay or offer to pay, directly or indirectly, except to regularly employed salesmen, any compensation, or give any gratuity to any person, attorney, or solicitor, either by any Member of the Textbook Publishing Industry or by any of his agents or representatives, for securing, or attempting to secure, sales or contracts of adoption.

SEC. 7. It shall be unfair competition for any Member of the Textbook Publishing Industry after the opening of public competitive bids to revise his bid, either directly or indirectly, and after an adoption has been regularly made, to interfere with the execution of a legal contract based upon such adoption.

SEC. 8. It shall be unfair competition for any Member of the Textbook Publishing Industry, his agents, or representatives to make or disseminate false reports or statements in any form about competitors, their products, or methods.

SEC. 9. It shall be unfair competition to increase the price of any textbook or series sold after the effective date of the Code by more than may be made necessary by actual increases in production. re-



placement, or invoice costs of material representing other steps in the economic process of publishing such book or series; provided further, that all contracts, whether state, county, or municipality, entered into prior to such effective date of the Code, provisions otherwise notwithstanding, will be subject to the aforesaid increase, and all contracts hereafter entered into while the Code is in force shall include a statement to this effect.

ARTICLE VII—GENERAL

SECTION 1. No provision in this Code shall be interpreted or applied in such manner as to:

- (a) Promote monopolies.
- (b) Permit or encourage unfair competition.
- (c) Eliminate or oppress small enterprise.
- (d) Discriminate against small enterprise.

SEC. 2. This Code and all its provisions shall remain in effect until the expiration date of Title I of the National Industrial Recovery Act subject to the right of the President, in accordance with Section 10 (b) of Title I of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of the Act, and, therefore, subject to the right of the President of the United States to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

SEC. 3. Amendment to this Code may be offered in writing by any Member of the Textbook Publishers' Council. Any such amendment shall be presented first to the Executive Committee which may submit the same to the Council. When adopted by a majority of the members of the Council, such amendment shall become a part of the Code when approved by the President of the United States.

SEC. 4. If any member of the Textbook Publishing Industry is also a publisher or producer of any product subject to the regulations of any other code which has been accepted by the President of the United States, the provisions of this Code and amendments thereto shall apply to and shall affect only that part of his business which is included in the Textbook Publishing Industry and its products as herein defined.

SEC. 5. Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, upon recommendation of the Executive Committee, and with the approval of the President of the United States, be modified or eliminated as changes in circumstances or experiences may indicate. They shall remain in effect unless and until so modified or eliminated, or until the expiration of the Act.

SEC. 6. If any provision of this Code is declared invalid or unenforceable, the remaining provisions thereof shall nevertheless continue in full force and effect in the same manner as if they had been separately presented and approved by the President of the United States.

SEC. 7. This Code shall be in effect within ten days following its approval by the President of the United States.